

DRAFT

AGENDA ITEM #4265

WATER/FLC/PTL/HJL:jlj

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION
Water Branch

RESOLUTION NO. W-4522
March 17, 2005

R E S O L U T I O N

**(RES. W-4522), POINT ARENA WATER WORKS (PAWW).
ORDER AUTHORIZING A SURCHARGE OF \$2.98 PER MONTH
PER CUSTOMER FOR SIX YEARS PRODUCING AN ANNUAL
INCREASE IN REVENUE OF \$6,625 OR 3.4% FOR A TOTAL OF
\$39,750 TO RECOVER LEGAL EXPENSES.**

SUMMARY

By Advice Letter No. 49, filed on October 28, 2004, PAWW requests a surcharge of \$6.98 per month per customer for six years producing an annual increase in revenue of \$15,485 for a total of \$92,911 to recover legal fees and other costs associated with the formal rate proceeding. In Res. W-4356, dated October 24, 2002, the Commission authorized PAWW to establish memorandum accounts to track the legal expenses associated with the formal rate proceeding. This resolution grants PAWW a surcharge of \$2.98 per month per customer for six years producing an annual increase in revenue of \$6,625 or 3.4% for a total of \$39,750 to recover legal expenses. The surcharge will not result in a rate of return greater than last authorized for PAWW.

BACKGROUND

PAWW is a Class D water utility that serves 185 connections in the City of Point Arena and vicinity and Whiskey Shoals Subdivisions 1, 2, and 3, in Mendocino County. PAWW's last general rate case was authorized by Res. W-4356, dated October 28, 2002, authorizing an interim increase of \$70,137 or 56.9% and a rate of return of 13.0%. Res. W-4356 ordered the following paragraphs:

DRAFT

Res. W-4522

March 17, 2005

PAWW/AL 49/FLC/PTL/HJL:jlj

- 5) PAWW is authorized to establish a memorandum account to track legal and other expenses associated with the formal proceeding to take place in this matter.
- 6) PAWW is authorized to file an advice letter requesting recovery of costs recorded in the memorandum account subject to reasonableness review once the final rate proceeding is concluded.

Decision (D.) 04-09-025 dated September 2, 2004, stipulates the following:

- 4) RE: Certain Costs Accumulated in a Memorandum Account.

The parties acknowledge that applicant has been authorized by the California Public Utilities Commission to track in a memorandum account, certain expenses incurred by Applicant in connection with its pending request for general rate relief and that Applicant will hereafter apply to the Commission by advice letter to recover such expenses through surcharges to be included in future customers' bills. The parties further acknowledge that at such time, the city may challenge the reasonableness of such expenses and the propriety of allowing said expenses to be recovered by Applicant through customer surcharges. Applicant agrees that such total expenses as may be approved by the Commission for recovery as surcharges (without provision for interest therein) shall be amortized by equal monthly surcharges over a period of six years. Applicant further agrees to include from the costs accumulated in said memorandum account the charges by Applicant's legal counsel for his service commencing January 7, 2004, in this proceeding.

DISCUSSION

Res. W-4356, dated October 24, 2002, Ordering Paragraph 6, and Stipulation No. 4 of D.04-09-025, establish a memorandum account for litigation expenses to track legal and other expenses associated with the formal proceeding.

On October 8, 2004, PAWW filed Advice Letter No. 49 requesting recovery of \$92,911 in legal expenses associated with the formal proceeding. The advice letter requested that recovery be spread over a 72-month period with each service connection receiving a surcharge of \$6.98. The Water Division (Division)

DRAFT

Res. W-4522

March 17, 2005

PAWW/AL 49/FLC/PTL/HJL:jlj

reviewed the invoices, time sheets, and the calculation of the reimbursement surcharge and has made the following adjustments:

In the last general rate case, Res. W-4356 allowed the following:

Professional Services	\$ 7,450
Regulatory Expenses	2,403
Employee Labor	5,640
Office Salaries	20,500
Management Salaries	19,500
Office Supplies	3,500
General Expenses	<u>420</u>
Total	\$59,413

This is ample enough to cover the PAWW's personnel cost of \$14,598.47 plus postage, telephone, and copy charges of \$1,241.47, and accountant fee of \$6,262.50

The staff has reviewed both the utility's and the City of Point Arena's analysis and finds 159 hours was billed by the attorney that relate to the AT&T issue at a cost of \$250 x 159 or \$39,750. This issue was resolved and a \$34,405 adjustment was made reducing rate base by \$34,405 benefiting the ratepayers.

Therefore, the staff recommends that only \$39,750 for the legal fees be allowed to be recovered in rates. The \$39,750 should be treated as follows:

$$\$39,750 \div 6 \div 12 \div 185 = \$2.98 \text{ per customer per month for six years.}$$

NOTICE AND PROTESTS

A notice of the proposed surcharge was published in the October 29, 2004 edition of the Independent Coast Observer. The Division has received one written protest from the Mayor of the City of Point Arena. The city objected to the increase for the following reasons:

The City of Point Arena submitted a protest to the Division dated November 8, 2004, stating its objection to the surcharge. The City is a customer of Point Arena.

Specifically, the City states that:

1. The Notice printed in a local newspaper and mailed to every customer did not adequately inform ratepayers that they had a right to protest the surcharge because it was accompanied by a "press release" that falsely claimed that an ALJ of the CPUC had already approved the \$92,911 surcharge that would go into effect on January 1, 2004. Therefore, the surcharge should be renoticed.
2. PAWW has not met its burden of proof to adequately document its claim for the recovery of \$92,911. Since the hours claimed for the Hays, office staff, and truck are not presented with any description of the activity, these payments may be double booked or may not relate to this proceeding and should be deducted. There is no support for the hourly rates requested by the attorney or the accountant, who spent much of the billed time educating themselves on CPUC procedure. There is no documentation to show how the \$6.98 surcharge was calculated.
3. In awarding compensation, the Commission must make a finding that the funds expended were in the interest of the ratepayer or of benefit to the ratepayer. In this case that finding cannot be made as the company spent nearly \$40,000 in legal costs to defend its inflated ratebase and negligent bookkeeping and management. The City therefore challenges the propriety of allowing these expenses to be recovered by the Applicant through customer surcharges.
4. More than 95% of the attorney's fees should be reduced or removed as they pertain to data management and other administrative or clerical or paralegal tasks. Correcting the attorney's billing would reduce the cost of attorney expenses from \$80,600 to \$5,700 if the AT&T issue was excluded and non-legal tasks were charged at a reasonable rate. If the AT&T issue is not excluded, those hours charged need to likewise be attributed to tasks charged at a reasonable hourly rate. The AT&T expenditures would be reduced from \$39,850 to \$7,876.
5. Forty-seven hours of the attorney's billed time are claimed for uncalled-for tasks or tasks clearly beyond the scope of this formal proceeding should not have been included in the memorandum account. The CPUC

DRAFT

Res. W-4522

March 17, 2005

PAWW/AL 49/FLC/PTL/HJL:jlj

has authorized PAWW nearly \$50,000 a year in the 2002 GRC for legal/management/regulatory expenses, which is more than adequate to cover these expenses.

6. At least 50% of the account fees should be removed or reduced as they are outside the scope of this proceeding or pertain to simple bookkeeping or clerical tasks.
7. Funds recorded in the memorandum account appear to be double-booked, they are either already being recovered from the ratepayers from expenses authorized in the last GRC and/or appear in the Annual Reports, perhaps to justify future General Rate Increases.

PAWW responded to the Mayor's protest by stating again that the AT&T refund issue was the worst time-consuming activity, which took 290 hours. This issue was resolved at the hearing and a \$34,405 adjustment to the Contributions was made reducing rate base by \$34,405. In addition, PAWW deferred its hours charged and emphasizes the fact that \$250 per hour for legal work is appropriate and that accounting, paralegal, and the clerical work were charged at a different rate.

COMMENTS

Per statutory requirement, a draft of this resolution was mailed to parties for comments at least 30 days prior to consideration by the CPUC.

Public Utilities Code Section 311 (g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311 (g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, the draft resolution was mailed to parties for comments on January 25, 2005, with comments due on February 24, 2005.

COMPLIANCE

There are no outstanding Commission orders requiring system improvements. PAWW has filed annual reports as required.

FINDINGS AND CONCLUSIONS

1. The six-year monthly surcharge of \$6.98 requested by the PAWW is unreasonable and should not be authorized.
2. The surcharge should be \$2.98 per month for a six-year period for a total of \$39,750.
3. PAWW should collect the six-year surcharge beginning April 1, 2005.
4. The six-year surcharge should terminate once the amount of \$39,750 has been collected.

THEREFORE IT IS ORDERED THAT:

1. Point Arena Water Works is authorized to file a supplemental advice letter to adopt the rate schedule attached as Appendix A and concurrently to cancel its presently effective rate schedule. The effective date of the new schedule shall be April 1, 2005.
2. The Point Arena Water Works shall collect the six-year surcharge beginning April 1, 2005.
3. The Point Arena Water Works' six-year surcharge will terminate once the amount of \$39,750 have been collected.
4. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 17, 2005; the following Commissioners voting favorably thereon:

STEVE LARSON

Executive Director

APPENDIX A

DRAFT

Res. W-4522

March 17, 2005

PAWW/AL 49/FLC/PTL/HJL:jlj

Schedule No. 1

GENERAL METERED SERVICE
(continued)

SPECIAL CONDITIONS

4. In addition to the above rates and charges rendered to all bills under (N)
this schedule, a surcharge in the amount of \$2.98 per month will be |
charged each customer for a period of 6 years from the effective date |
of Advice Letter No. 49. This surcharge is specifically for the recovery |
of expenses established by the memorandum account authorized by |
Res. W-4356, dated October 24, 2002, and the Joint Stipulation attached |
to D.04-09-025, dated September 2, 2004. (N)